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August 17, 2023

BY ECF AND E-MAIL

Honorable Judith C. McCarthy
United States Magistrate Judge
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

SO ORDERED:

Mr. Pravda is directed to respond to this letter by August 21, 2023. Plaintiffs counsel are directed to serve a copy of this endorsement on Mr. Pravda via e-mail.

 8-18-23
JUDITH C. McCARTHY
United States Magistrate Judge

Re: *Martimiano Santiago Mendez, et. al. v. Parkway Coffee Shop, Inc., et. al.*
Case No. 22 Civ. 9575 (KMK)(JCM)

Dear Judge McCarthy,

We are counsel to plaintiffs Martimiano Santiago Mendez, David Hernandez Garcia, and Jennifer Donoso (collectively, "plaintiffs") in the above-referenced action brought pursuant to the Fair Labor Standards Act and New York Labor Law. This case has been referred to Your Honor for general pretrial supervision.

On August 2, 2023 this court held a lengthy pretrial conference with counsel. Following hearing from all counsel, the court issued an order, *inter alia*, as follows:

1. Defendants Parkway Coffee Shop and Robert Cucolo's responses to discovery demands must be served by August 11, 2023;¹
2. Defendants Parkway Coffee Shop and Robert Cucolo's answer to the amended complaint must be filed by August 14, 2023;²

¹ The responses were already late at the time of the conference, as reported to the court on June 28, 2023 [Docket 35].

² These defendants were already in default as reported to the court at the conference and in pre-conference correspondence. *See*, Docket 35.

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As of this writing on the afternoon of August 17th, 2023, counsel has not complied with the court's order of August 2nd. Discovery remains long overdue, counsel has not appeared in the action, and the answer to the amended complaint has not been properly served or filed.

On August 2, 2023 counsel explained to the court that he does not have access to electronic filing, but that does not excuse his refusal to call or email, or simply mail long overdue discovery responses. Moreover, counsel has been instructed multiple times to resolve whatever issues are preventing him from appearing in this action. Counsel has not requested from the undersigned or the court an extension of these court-ordered deadlines which were requested because discovery responses and Rule 26 Disclosures were already late.

On behalf of plaintiffs, we respectfully request that counsel for Parkway Coffee Shop and Robert Cucolo be ordered to show cause why they should not be sanctioned for continuing to ignore their discovery obligations, and orders of the court.

Thank you for your consideration of this matter.

Respectfully submitted,

CILENTI & COOPER, PLLC

/s/ Peter Hans Cooper

By:

Peter H. Cooper, Esq.

cc: Counsel of Record (Via ECF)
David A. Pravda, Esq. for Parkway Coffee Shop, Inc. and Robert Cucolo (Via E-mail)